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09/514,371	02/28/2000	James E. Curry	50107-459	8426

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EXAMINER

NGUYEN, STEVEN H D

ART UNIT PAPER NUMBER

2665

DATE MAILED: 10/22/2003

18

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/514,371

Applicant(s)

CURRY ET AL.

Examiner

Steven HD Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 and 28-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-22 and 28-37 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-7, 17-19 and 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turock (USP 6243373) in view of Guy (USP 6298057).

Regarding claim 1-7, 17-19 and 35-37, Turock discloses (Figs 2-10 and col. 5, lines 19 to col. 15, lines 54) a method and apparatus for telecommunication over a wide area packet switched network (Fig 2, Ref 214 is a WAN) comprising sending from a calling party a called number, corresponding to a called party and including an area code, to a first central office connected to a first telephone system (Fig 2, Ref 202 is a user for sending a telephone number of called party to a central office 212 which is connected a first telephone system 210); forwarding the called number from the first central office to a first telephony server, connected to the first

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telephone system and in communication with the wide area packet switched network, via a signaling channel of the first telephone system (Fig 2, the central office 212 forwards the called party telephone number to the Server 206 and Fig 3, Ref 204 sends a called party number to the central office 218 via a signaling channel of the first telephone system; the central office will forward the called party telephone number to server 216 of Fig 3); identifying a second telephony serve, in communication with the wide area packet switched network and serving said called party in a second telephone system, from a routing and administration database by using at least said area code; sending the called number from the first telephony server to the second telephony server via said wide area packet switched network (Fig 5, Ref 506 searches for a ITS node which serves the called party telephone number in the routing and administration database 514 by using an area code number by sending a request for a route "predetermined path" between the servers; the database replies a message which includes a destination address of the destination server; See col. 9, lines 26-65); a central office which monitoring the condition of called party such busy or not, in order to generates a busy signal for transmitting via the servers to notify the calling party and calling party disconnects a call or not so that the central office to suspend by the central office (Fig 9 and 10). However, Turock does not disclose allocating a resource on the wide area packet switched network sufficient to provide a guaranteed level of service through the wide area packet switched network; and selectively establishing a communication link, via the resource at least the guaranteed level of service, between the first telephony server and the second telephony server through the wide area packet switched network, to establish communication between the calling and called parties. In the same field of endeavor, Guys discloses (Figs 1-8 and col. 1, lines 15 to col. 16, lines 67) a method and

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apparatus which receives a call party number at the server and identifying the destination server based on the dialed number and allocating a resource on the Wan to provide a guaranteed level of service through the wide area packet switched network and selectively establishing a communication link, via the resource at least the guaranteed level of service, between the first telephony server and the second telephony server through the wide area packet switched network, to establish communication between the calling and called parties (Fig 5 discloses a method and apparatus for established a communication path with a guaranteed level of service 520, 522, 526 of Fig 5 between the servers 130 and 112 of Fig 1 and established a voice communication path between the calling and called parties via a predetermined path between the servers by using RSVP; the server judges if the calling party requests a guaranteed level of service or not; See Fig 5, Ref 520); the second predetermined for using to access a master server which includes a routing and administrator database for receiving a request and transmitting a reply to the server (Fig 5, Ref 510); the path between the servers being the same link with other communication the routers can change the rate of any call based on the traffic.

Since, Turock suggests that a voice quality must takes into consideration by applying a number of different techniques to improve a voice quality between the servers. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a method and apparatus for using RSVP for allocating resource and establishing a predetermined path between the servers to improve the voice quality between the users as disclosed by Guys's method and system into Turock's method and system. The motivation would have been to reduce a long distance cost and ensure a low delay in the data network which is used to transmit a voice signal.

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4. Claims 8-10 and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turock and Guys as applied to claim 1 above, and further in view of Rosenberg (USP 6304567).

Regarding claims 8-10 and 12-16, Turock and Guys does not disclose a session ID and channel ID for using established a communication path between servers. However, Rosen discloses a channel ID which is assigned to the calling party, is used to transmitting between the servers to performing a signaling message (Fig 2b, Ref 221 uses the channel and Label ID for communicating between the servers).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a method and apparatus for identifying the received packets based on the assigned identifier as disclosed by Rosenberg into the system of Turock and Guys. The motivation would have been to provide a efficient way to communicate the voice packet via Internet.

5. Claims 20-22 and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (RFC 1798) in view of Hogan (USP 5483587), Guys (USP 6298057) and Rosenberg (USP 6304567).

Regarding claims 20-22 and 28-29, Yang teaches sending from a calling party a called number including an area code to a first central office (central office in area A) connected to a first telephone system (telephone system in area A), forwarding the called numbered from the first central office to a first telephony server (INETPHONE server in area A) (see section 1) and in communication with the wide area network (the Internet), identifying the second telephony server (INETPHONE server in area B) from a routing and administration data base (directory server in section 4) using the area code (see section 4), sending the called number from the first

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server (INETPHONE server in area A) to the second server (INETPHONE server in area B) via the WAN (the Internet) and selectively establishing a communication link between the first server (INETPHONE server in area A) to the second server (INETPHONE server in area B).

Yang, teaches the use of INETPHONE servers (telephony server) to route long distance calls over the Internet to reduce cost. Yang differs from the claim in that Yang does not teach that the telephony server receives called numbers from the central office via a signaling channel.

However, such feature is old and well known in the art of telephony. For example, Hogan teaches that telephony server (302) receives called number from the switching office via a signaling channel (124) (see figures 3 and 5). The use of signaling channel as a reliable means to communicate calling data or other types of calling signaling information is old and well known in the art. Thus, it would have been obvious to one skilled in the art at the time the invention was made to apply Hogan's teaching of using a signaling channel to communicate called number from the switching office to the telephony server in Yang's system with the motivation being to improve transmission reliability of control or signaling information. Yang in view of Hogan still fails to teach the allocation of resources on the wide area network sufficient to provide guaranteed level of service through the WAN. However such feature is old and well known in the art as evidenced by Guys. Specifically, Guys teaches (Figs 1-8 and col. 1, lines 15 to col. 16, lines 67) a bandwidth allocation for QoS on the WAN packet network for maintaining a guaranteed QOS in communications within the communications system for transmitting voice packet and changing data rate based on traffic at the router (Fig 5 discloses a method and apparatus for established a communication path with a guaranteed level of service 520, 522, 526 of Fig 5 between the servers 130 and 112 of Fig 1 and established a voice communication path

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between the calling and called parties via a predetermined path between the servers by using RSVP; the server judges if the calling party requests a guaranteed level of service or not; See Fig 5, Ref 520) and Rosenberg discloses the use of channel ID and Session ID for identifying the communication session between the servers (Fig 2b, Ref 221 uses the channel and Label ID for communicating between the servers). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply either the teaching of a bandwidth allocation scheme for providing guaranteed services in WAN as taught by Guys in the system of Yang in view of Hogan with the motivation being to enhance system performance by providing guaranteed level of services.

Since, Yang suggests that a voice quality must takes into consideration by applying a number of different techniques to improve a voice quality between the servers. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a method and apparatus for using RSVP for allocating resource and establishing a predetermined path between the servers to improve the voice quality between the users as disclosed by Guys's method and system and signaling network of Hogan and Session and channel ID as disclosed by Rosenberg's system into Yang's method and system. The motivation would have been to reduce a long distance cost, ensure a low delay in the data network which is used to transmit a voice signal and identifying the communication signal between a plurality of callers.

6. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Turock (USP 6243373) in view of Rosenberg (USP 6304567)

Turock discloses (Figs 2-10 and col. 5, lines 19 to col. 15, lines 54) a method and apparatus for telecommunication over a wide area packet switched network (Fig 2, Ref 214 is a WAN) comprising sending from a calling party a called number, corresponding to a called party and including an area code, to a first central office connected to a first telephone system (Fig 2, Ref 202 is a user for sending a telephone number of called party to a central office 212 which is connected a first telephone system 210); forwarding the called number from the first central office to a first telephony server, connected to the first telephone system and in communication with the wide area packet switched network, via a signaling channel of the first telephone system (Fig 2, the central office 212 forwards the called party telephone number to the Server 206 and Fig 3, Ref 204 sends a called party number to the central office 218 via a signaling channel of the first telephone system; the central office will forward the called party telephone number to server 216 of Fig 3); identifying a second telephony serve, in communication with the wide area packet switched network and serving said called party in a second telephone system, from a routing and administration database by using at least said area code; sending the called number from the first telephony server to the second telephony server via said wide area packet switched network (Fig 5, Ref 506 searches for a ITS node which serves the called party telephone number in the routing and administration database 514 by using an area code number by sending a request for a route “predetermined path” between the servers; the database replies a message which includes a destination address of the destination server; See col. 9, lines 26-65). However, Turock does not disclose a method and apparatus for assigning a session identifier for a call between the caller parties for transmitting a signaling message and voice packet between the servers. In the same field of endeavor, Rosenberg discloses a method and apparatus for assigning a channel and

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session ID for a communication between the parties for using to exchanging the signaling and voice packet between the servers (Fig 2b Ref 221 uses the channel and Label ID for communicating between the servers).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a method and apparatus for assigning a channel and session ID for a communication between the servers as disclosed by Rosenberg's system and method into Turock's system. The motivation would have been to provide an efficient way to transmit the signaling and voice packet between the servers.

7. Claims 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turock and Rosenberg as applied to claim 30 above, and further in view of Guys (USP 6298057).

Turock and Rosenberg fail to disclose the claimed invention. However, Guy discloses (Figs 1-8 and col. 1, lines 15 to col. 16, lines 67) a method and apparatus for transmitting a voice packet via internet with a quality of service by allocating a bandwidth in the Internet between the servers (Fig 5 discloses a method and apparatus for established a communication path with a guaranteed level of service 520, 522, 526 of Fig 5 between the servers 130 and 112 of Fig 1 and established a voice communication path between the calling and called parties via a predetermined path between the servers by using RSVP; the server judges if the calling party requests a guaranteed level of service or not; See Fig 5, Ref 520).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a method and apparatus for using RSVP for allocating resource and establishing a predetermined path between the servers to improve the voice quality between the users as disclosed by Guys's method and system into a method and system of Turock and

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Rosenberg. The motivation would have been to reduce a long distance cost and ensure a low delay in the data network which is used to transmit a voice signal between the servers.

8. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Turock and Rosenberg and Guy as applied to claim 30 above, and further in view of Hogan (USP 5483587).

Turock, Rosenberg and Guy fail to disclose a signaling network. However, Hogan discloses teaches that telephony server (302) receives called number from the switching office via a signaling channel (124) (see figures 3 and 5). The use of signaling channel as a reliable means to communicate calling data or other types of calling signaling information is old and well known in the art. Thus, it would have been obvious to one skilled in the art at the time the invention was made to apply Hogan's teaching of using a signaling channel to communicate called number from the switching office to the telephony server into Turock, Guy and Rosenberg.

Response to Arguments

9. Applicant's arguments filed 8/11/2003 have been fully considered but they are not persuasive.

In response to applicant's argument at pages 2-3 that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir.

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1992). In this case, Turock clearly suggests that one of ordinary skill in the art would apply a number of different techniques to improve voice quality in the call setup message. Guy discloses a method for improving the quality of the voice signal by allocating the bandwidth along a predetermined path between the gateways for routing the voice path by using a RSVP.

Therefore, it would have been obvious to one of ordinary skill in the art to apply the teaching of Guy into Turock's system in order to obtain a quality voice signal at the destination as claimed 1-7, 17-19 and 35-37.

In response to pages 3-5, the applicant states that Turock and Guy fail to disclose a predetermined path. In reply, Turock discloses a routing and administration server for storing the routing path between the gateways such as LCR. the routing path is established between the gateways in order to obtain the least cost routing. Gateway sends a query message to the routing and administration server in order to receive a response that including a destination address of the gateway in order to routing the call setup to the destination gateway via a predetermined path of LCR. Furthermore, Guy discloses that a gateway obtains a routing path from a routing and administration server and send a call setup for allocating the bandwidth for the call between the gateways via a predetermined path between the gateways as claimed 2-4, 7, 17, 19 and 35-37.

In response to page 5, the applicant states that Turock and Guy do not disclose a quality of service of calling party. In reply, Guy discloses a routing and administration server for storing the QOS of the calling party in order to be retrieved when the subscriber requests for allocate the bandwidth for the telephone call (See col. 11, lines 45 to col. 12, lines 21).

In response to pages 6-7, the applicant states that Turock, Guy and Rosenberg fail to disclose the claimed invention. In reply, Rosenberg discloses a channel ID which reads on

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session identifier for identifier a call attempt "attempt only one" between the called and calling party and Turock and Guy discloses a step of sensing the condition of the calling party when the party pick up a telephone and sending a dialed number or hang-up or not information to the gateway wherein the signaling message of the prior arts includes the telephone number of calling party (See col. 13, lines 28-46 and col. 14, lines 39-65) and channel ID of Rosenberg of as claims 8-10 and 12.

In response to pages 7-8, the applicant states that Turock, Guy and Rosenberg fail to disclose a step of assigning trunk line based on the identifier. Turock, Guy and Rosenberg are implicitly disclosed this step otherwise the communication signal can not transmit to the central office as claims 13-16.

In response to page 8, the applicant states that Guys and Rosenberg do not disclose a predetermined path. In reply, Guy discloses a predetermined path between the gateways for using to allocated bandwidth for the call; if the predetermined path does not have enough bandwidth to allocate for the call, the gateway will reject the call and routing the call via WAN by using a best effort method and Rosenberg disclosed a method of routing a call via a predetermined path between the gateways when received a second telephone call (See col. 3, lines 12-38) as claim 21-22.

In response to page 8, the applicant states that Guys and Rosenberg fails to disclose the session identifier of claim 30-34. In reply, Rosenberg discloses this step as indicated in the argument that set forth for claim 8.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the

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communication path is determined prior to the initiation of a call by a calling party and dedicated virtual path) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Allowable Subject Matter

10. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

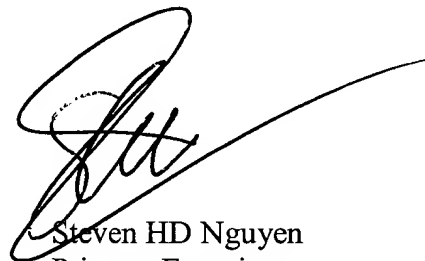
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven HD Nguyen whose telephone number is (703) 308-8848.

The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D Vu can be reached on (703) 308-6602. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

A handwritten signature in black ink, appearing to be 'SHN', with a long horizontal line extending to the right.

Steven HD Nguyen
Primary Examiner
Art Unit 2665
October 18, 2003